

## **REMARKS**

### **I. Status of the Claims**

Claims 35-40, 44-47, 49-52 and 57-59 are pending and stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by United States Patent No. 6,218,531 to *Ekenberg*. The claims are not amended in this response, therefore no listing of claims is presented.

### **II. Objections to the Specification**

The Office Action objects to the disclosure as allegedly improper due to a typographical error in paragraph [0036], particularly, the use of "PCT" in place of "PCR". The amendment correcting this typographical error is made herein. No new matter is added by amendment. Withdrawal of the rejection is respectfully requested.

### **III. Claim Rejections, 35 U.S.C. § 102**

Claims 35-40, 44-47, 50-52 and 57-59 stand rejected under 35 U.S.C. § 102(b) for alleged anticipation by *Ekenberg*. In the Office Action, the Examiner states, "Applicants incorrectly assert that *Ekenberg* does not teach non-chaotropic salts in his methods." Applicants respectfully submit that this is a misstatement of the Applicants' position on this issue. Whether *Ekenberg* discloses use of non-chaotropic salts is not material. What is material is that *Ekenberg* does not teach that only non-chaotropic ions may be used. Instead, *Ekenberg* clearly requires that its method include introduction of chaotropic reagents. *Ekenberg will not work* without the introduction of chaotropic reagents. The very first step of *Ekenberg*, which may not be omitted, teaches use of a chaotropic salt. (*See, e.g.*, claim 1). *Ekenberg* requires a "lysis buffer containing a chaotropic salt" with a concentration of at least 0.5 molar. The claims of the instant application in contrast, require that the method not include introduction of any chaotropic reagents; instead, it is based on combinations of non-chaotropic mono and multivalent cations.

This limitation is not taught anywhere in *Ekenberg*, which requires use of chaotropic reagents in all phases of its method.

**CONCLUSION**

As set forth above, *Ekenberg* does not teach the limitation of the current claims that requires exclusion of chaotropic reagents. Because *Ekenberg* does not teach all of the limitations of the claims, *Ekenberg* cannot anticipate the claims under 35 U.S.C. § 102(b). One must also note that because *Ekenberg* explicitly requires that which is excluded by the current claims, *Ekenberg* also would not be able to render the current claims obvious under 35 U.S.C. § 103. Therefore, reconsideration and allowance of all claims are requested.

If a telephone conference would hasten allowance of this application, the Examiner is asked to call the number below.

Respectfully submitted,

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